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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|---------------------------|--|
| Proceeding | 91214086 |
| Party | Plaintiff Starbuzz Tobacco Inc. |
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| Submission | Motion to Suspend for Civil Action |
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| Date | 02/27/2015 |
| Attachments | Motion to Suspend 022715.pdf(1423768 bytes) |

**IN THE UNITED STATES PATENT AND TRADE MARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/774,314

Mark: *MYST*

Filed: *November 8, 2012*

Published: *November 19, 2013*

| | | |
|-------------------------|---|--|
| STARBUZZ TOBACCO, INC., |) | |
| |) | |
| Opposer, |) | OPPOSITION NO: 91214086 |
| |) | |
| v. |) | OPPOSER STARBUZZ TOBACCO, |
| |) | INC.'S MOTION TO SUSPEND |
| |) | PROCEEDINGS |
| PHILIP MELNICK, |) | |
| |) | Opposition Filed: December 18, 2013 |
| Applicant. |) | |
| |) | |
| |) | |
| |) | |
| |) | |
| |) | |

INTRODUCTION

Pursuant to 37 C.F.R. § 2.117(a) and TBMP § 510.02(a), Opposer, Starbuzz Tobacco, Inc. (“Starbuzz”), through its undersigned counsel, hereby requests the Trademark Trial and Appeal Board (“Board”) to suspend this Opposition No. 91207921 (the “Opposition”) pending the final determination of *Starbuzz Tobacco, Inc. v. Philip Melnick*, Case No. 8:15-cv-00224 (the “Civil Action”). The Civil Action is currently pending between the parties before the United States District Court for the Central District of California (the “District Court”). The Civil Action involves the same trademark application at issue in the instant proceeding and will have a direct bearing on this Opposition.

FACTUAL BACKGROUND

Starbuzz initially filed this Opposition against Applicant Philip Melnick's ("Applicant") trademark application for the mark MYST (Serial No. 85/774,314) based upon its ownership of the BLUE MIST, CITRUS MIST, PEACH MIST and TROPICAL MIST trademarks (collectively, the "Starbuzz Marks").

On February 9, 2015, Starbuzz initiated the Civil Action against Applicant in the District Court. *See* **Exhibit I**. In the Civil Action, Starbuzz alleges that Applicant has infringed upon its rights because Starbuzz has priority to the Starbuzz Marks over Applicant's MYST mark, and the marks are likely to be confused with each other. Starbuzz further requests for an order from the District Court directing the USPTO to deny the application to register the MYST mark. Therefore, in reaching a judgment in the Civil Action, the Court will necessarily need to resolve all of the issues that are currently before the Board with respect to the Opposition proceeding.

ARGUMENT

Where a party to a case pending before the Board is also involved in a civil action that may have a bearing on a matter before the Board, it may suspend the proceeding until the final determination of the civil action. 37 C.F.R. § 2.117(a); TBMP § 510.02(a). This is because a decision by the United States District Court would be binding on the Board, whereas a determination by the Board as to a party's right to registration would not be binding or *res judicata* with respect to the proceeding before the United States District Court. *See, e.g., J. Thomas McCarthy, 6 McCarthy on Trademarks and Unfair Competition* § 32:94 (4th Ed. 2009).

In the Civil Action, Starbuzz asserts legal claims against Applicant, which relate directly to the claims and defenses raised in the instant Opposition proceeding. As binding precedent, the District Court's determinations in the Civil Action will directly affect the resolution of the issues currently before the Board.

For example, Starbuzz alleges in the Opposition that it has priority to the Starbuzz Marks over Applicant's MYST mark, and the marks are likely to be confused with each other. Likewise in the Civil Action, Starbuzz claims that Applicant is infringing upon the Starbuzz Marks for the same reasons. Therefore, the District Court will have to determine whether Starbuzz has priority to the Starbuzz Marks, and whether the parties' marks are likely to be confused with each other. Thus, the District Court's determination on such matters will constitute binding precedent.

CONCLUSION

Based upon the foregoing, Starbuzz respectfully requests the Honorable Board to suspend the Opposition proceeding pending the final determination of the Civil Action.

Respectfully submitted,
THE PATEL LAW FIRM, P.C.

/natupatel/
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CERTIFICATE OF SERVICE

I certify that a copy of OPPOSER STARBUZZ TOBACCO, INC.'S MOTION
TO SUSPEND PROCEEDINGS is being served via United States mail, postage prepaid,
on this the 27th day of February 2015, to the following:

Applicant's Attorney/Representative:

PHILIP MELNICK
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Mark Uy

Exhibit I

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Attorneys for Plaintiff,
Starbuzz Tobacco, Inc.,
a California corporation

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

| | |
|--------------------------------|--------------------------------|
| STARBUZZ TOBACCO, INC., a |) Case No.: |
| California corporation, |) |
| |) COMPLAINT FOR: |
| Plaintiff, |) |
| vs. |) 1. TRADEMARK INFRINGEMENT |
| |) (UNDER 15 U.S.C. §1114); |
| |) |
| PHILIP MELNICK, an individual, |) 2. FALSE DESIGNATION OF |
| |) ORIGIN (UNDER 15 U.S.C. |
| Defendant. |) §1125); |
| |) |
| |) 3. UNFAIR BUSINESS PRACTICES |
| |) (UNDER BUS. & PROF. CODE |
| |) §17200 et seq.); AND |
| |) |
| |) 4. COMMON LAW TRADEMARK |
| |) INFRINGEMENT AND UNFAIR |
| |) COMPETITION |
| |) |
| |) |
| |) DEMAND FOR JURY TRIAL |
| |) |
| |) |

1 Plaintiff, Starbuzz Tobacco, Inc. complains and alleges as follows:

2 **PARTIES**

3 1. Plaintiff, Starbuzz Tobacco, Inc. (“Starbuzz” or “Plaintiff”), is now,
4 and at all times relevant herein was, a corporation organized under the laws of the
5 State of California, with its principal place of business in the City of Garden
6 Grove, California.
7

8 2. Defendant, Philip Melnick (“Melnick”), is now, and at all times
9 relevant herein was, an individual residing in the state of New York.
10

11 3. Plaintiff is informed and believes that Melnick is the owner of the
12 infringing MYST trademark, which he uses and displays in this judicial district.
13

14 4. Starbuzz is informed and believes, and on that basis alleges, that
15 Defendant is responsible for each of his acts and for his conduct, which are the true
16 legal causes for the damages herein alleged.
17

18 **JURISDICTION AND VENUE**

19 5. This Court has original jurisdiction over this action pursuant to 15
20 U.S.C. §§1119 and 1121, and 28 U.S.C. §§1331 and 1338, in that this Complaint
21 raises federal questions under the United States Trademark Act (Lanham Act), 15
22 U.S.C. §1051 et seq. The Court has supplemental jurisdiction over the state law
23 claims pursuant to 28 U.S.C. §1367.
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1 6. The Court has personal jurisdiction over Defendant because he has
2 purposefully engaged in using a trademark that is confusingly similar to Starbuzz's
3 trademarks in connection with the sale and distribution of electronic cigarettes.
4 Since Starbuzz's registered trademarks provide constructive notice of Starbuzz's
5 intellectual property rights and Starbuzz's location, Defendant knew or should
6 have known that his activities were directed towards California, and the effect of
7 those activities would be felt in California.
8
9

10 7. The Court also has personal jurisdiction over Defendant because he
11 has engaged in business activities in and directed to California, and has committed
12 tortious acts within the State.
13
14

15 8. The Court also has personal jurisdiction over Defendant because he
16 has purposefully availed himself of the opportunity to conduct commercial
17 activities in this forum. The Complaint arises out of those commercial activities.
18

19 9. Venue is proper in this district under 28 U.S.C. §§ 1391 (b) and (c) in
20 that substantial injury occurred and continues to occur in this district, a substantial
21 portion of the events that are the subject of this action took place in this district,
22 and Defendant is doing business within this judicial district.
23
24

25 **INTRODUCTION**

26 10. This case alleges a straightforward yet egregious claim of trademark
27 infringement, and other violations of federal and state law. It is egregious because
28

1 Defendant has intentionally duplicated, adopted, and used trademarks that are
2 identical or substantially similar to Starbuzz's trademarks in his products with
3 blatant disregard to Starbuzz's intellectual property rights, in order to unfairly
4 compete with Starbuzz and to trade upon Starbuzz's goodwill.

6 11. As a manufacturer and supplier of premium hookah tobacco, as well
7 as a distributor of hookahs, electronic cigarettes, electronic vaporizers, e-liquids
8 and other products worldwide, Starbuzz has obtained over ninety (90) federally
9 registered trademarks in the United States and has sought to obtain worldwide
10 intellectual property protection in more than thirty-three (33) countries.

13 12. Over the past several years, Starbuzz has sold, and continues to sell,
14 tobacco products, electronic cigarettes, e-liquid, and electronic vaporizers bearing
15 one or more of the following trademarks: BLUE MIST, CITRUS MIST,
16 HAWAIIAN MIST, TROPICAL MIST, PEACH MIST and MIST. Starbuzz's
17 aforementioned marks are collectively referred to as the "Starbuzz Marks."
18

20 13. Starbuzz discovered that Defendant is using trademarks that are
21 identical or substantially similar to the Starbuzz Marks in connection with
22 Defendant's products.

24 14. Defendant is not affiliated with Starbuzz in any way, and does not
25 have Starbuzz's permission to use the Starbuzz Marks, or any mark that is
26 confusingly similar to the Starbuzz Marks.
27
28

1 15. Defendant intentionally adopted and uses the confusingly similar
2 trademark MYST in connection with electronic cigarettes (the “Infringing
3 Products”), to falsely convey to consumers, vendors, and third parties an
4 association with Starbuzz, and to unfairly trade and benefit from the reputation and
5 goodwill of Starbuzz’s business and the Starbuzz Marks.
6

7
8 16. On February 12, 2013, Defendant filed a trademark application, serial
9 no. 85/774,314 for the MYST trademark under Section 1(a) of the Lanham Act, 15
10 U.S.C. § 1051(a), claiming a date of first use of October 1, 2012. The MYST
11 trademark is referred to herein as the “Infringing Mark.”
12

13 17. Defendant is aware that his actions are specifically prohibited and are
14 on notice that Starbuzz has not consented to his actions in any way.
15

16 18. By this Complaint, Starbuzz seeks to prevent deception, consumer
17 confusion, mistake, annoyance, and loss of customer goodwill, and to protect its
18 intellectual property and reputation from intentional infringement.
19

20 19. Starbuzz files this civil action against Defendant for violations of the
21 United States Trademark Act (Lanham Act), 15 U.S.C. §1051 et seq., and related
22 state and common law claims.
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FACTS

OWNERSHIP OF THE STARBUZZ MARKS

20. For the past several years, Starbuzz has been using the Starbuzz Marks in commerce.

21. Starbuzz also registered with the United States Patent and Trademark Office (“USPTO”) the following marks for various tobacco and related products:

| <u>Trademark</u> | <u>Reg. No.</u> | <u>Register</u> | <u>First Use At Least As Early As</u> | <u>Exhibit</u> |
|------------------|-----------------|-----------------|---|----------------|
| BLUE MIST | 3,619,407 | Principal | December 1, 2006 | <u>A</u> |
| CITRUS MIST | 3,695,500 | Principal | March 4, 2008 | <u>B</u> |
| HAWAIIAN MIST | 4,196,953 | Principal | June 22, 2011 | <u>C</u> |
| TROPICAL MIST | 4,196,957 | Principal | June 22, 2011 | <u>D</u> |
| PEACH MIST | 4,287,968 | Principal | January 27, 2012 | <u>E</u> |

22. Starbuzz has also filed applications with the USPTO to register the following marks for tobacco products and/or electronic cigarettes:

| <u>Trademark</u> | <u>Serial. No.</u> | <u>Register</u> | <u>First Use At Least As Early As</u> | <u>Exhibit</u> |
|------------------|--------------------|-----------------|---|----------------|
| BLUE MIST | 85/812,403 | Principal | August 22, 2012 | <u>F</u> |

23. At all times relevant herein, Starbuzz has been, and still is, the owner of the exclusive rights, title, and interest in the Starbuzz Marks for tobacco and

1 other related products, and has the full and exclusive rights to bring suit to enforce
2 its trademark rights, including the right to recover for past infringement.

3 **STARBUZZ'S CONTINUOUS USE OF ITS MARKS**
4

5 24. Starbuzz manufactures, distributes, imports, and sells tobacco
6 products throughout the United States and internationally. Starbuzz also
7 distributes and sells tobacco alternative products, such as electronic cigarettes, e-
8 liquids, and other related products throughout the United States and internationally.
9 Starbuzz prides itself on its reputation for high-quality products. Starbuzz's
10 continued goal is to develop new and popular tobacco, tobacco alternatives, and
11 other related products while preserving the quality of its products and brand
12 identity.
13
14
15

16 25. Starbuzz sells its products to thousands of customers and clients,
17 including boutique stores, wholesalers, and suppliers. Starbuzz has used, created
18 and marketed the Starbuzz Marks continuously over the years. The Starbuzz
19 Marks have brought Starbuzz enormous success, and Starbuzz is now known for its
20 high quality products.
21
22

23 26. Starbuzz uses the Starbuzz Marks on advertising brochures,
24 advertising leaflets, on the Internet, and on the packaging of its products.
25

26 27. Starbuzz's intellectual property and brand identity have substantial
27 image recognition.
28

1 28. The Starbuzz Marks are important as they serve as easily-recognizable
2 identifiers of the high quality goods and services that Starbuzz offers. There is a
3 particularly close association among consumers between Starbuzz, the Starbuzz
4 Marks, and the quality of the products and services offered under the Starbuzz
5 Marks. For consumers, customers, vendors, and clients, the Starbuzz Marks are
6 associated with original, flavorful, and smooth smoking tobacco, tobacco
7 alternatives, and related products of the highest quality at an affordable price.
8
9

10 **DEFENDANT’S WRONGFUL ACTS**

11 Sales of Infringing Products

12 29. Starbuzz is informed and believes, and on that basis alleges, that
13 Defendant has sold and are currently selling, distributing, advertising and
14 promoting MYST branded electronic cigarettes on the website www.mystcigs.com
15 (“Infringing Website”). Plaintiff is informed and believes, and thereon alleges,
16 that Defendant distributes his products in California, through that website. True
17 and correct copies of printouts from various parts of the website
18 www.mystcigs.com are attached hereto as **Exhibit G**. A true and correct copy of
19 WHOIS information for the www.mystcigs.com domain name, listing Philip
20 Melnick as the registrant, is attached hereto as **Exhibit H**.
21

22 30. Starbuzz is informed and believes, and on that basis alleges, that
23 Defendant has also registered other websites using the name MYST, including, but
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1 not limited to, mystcig.com and mystcigarette.com. True and correct copies of
2 WHOIS information for those domain names is attached hereto as **Exhibit I**.

3 31. Starbuzz is informed and believes, and on that basis alleges, that
4 Defendant has continuously and systematically distributed the Infringing Products
5 throughout California and the United States, misled and confused consumers, and
6 negatively affected the publicity regarding the Starbuzz products.
7

8 32. Starbuzz is informed and believes, and on that basis alleges, that
9 Defendant is using the Infringing Mark to market, promote, advertise and sell the
10 Infringing Products.
11

12 33. Starbuzz is informed and believes, and on that basis alleges, that
13 Defendant knew of Starbuzz's prior use of the Starbuzz Marks by virtue of
14 Starbuzz's trademark registrations and reputation in the tobacco market.
15

16 34. Nonetheless, Defendant adopted the Infringing Mark to market and
17 sell the Infringing Products, to deceive consumers into believing that the Infringing
18 Products are produced and manufactured by Starbuzz, and to trade upon Starbuzz's
19 goodwill.
20

21 Defendant's Use of the Infringing Mark is Likely to Cause Consumer Confusion
22

23 35. Defendant's distribution and sale of the Infringing Products bearing
24 the Infringing Mark is likely to cause consumer confusion.
25

26 36. To date, Defendant is continuing with his infringing activity.
27
28

1 37. Starbuzz is informed and believes, and on that basis alleges, that
2 Defendant began using the Infringing Mark after Starbuzz began using the
3 Starbuzz Marks for various products. Therefore, Starbuzz's rights in the Starbuzz
4 Marks have priority over Defendant's rights in the Infringing Mark.
5

6 38. Starbuzz is informed and believes, and on that basis alleges, that
7 Defendant knew of Starbuzz's prior use of the Starbuzz Marks. Nonetheless,
8 Defendant adopted and/or used the Infringing Mark to advertise his business and
9 products.
10

11 39. Starbuzz is informed and believes, and on that basis alleges, that given
12 the similar or related nature of Starbuzz's products and the Infringing Products,
13 and the similarity between the Infringing Mark and the Starbuzz Marks, consumers
14 are likely to be confused as to the source of Starbuzz's products and Defendant's
15 products.
16

17 40. Starbuzz is further informed and believes, and on that basis alleges,
18 that Defendant intentionally, and in bad faith, adopted and used the Infringing
19 Mark to trade upon the fame and goodwill associated with the Starbuzz Marks, to
20 deceive consumers, vendors and third parties, to attract new business in
21 competition to Starbuzz, and to derive an economic benefit therefrom.
22

23 41. Defendant knowingly used and continues to use the Infringing Mark
24 without Starbuzz's consent or authorization.
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1 42. The products that Defendant offers under the Infringing Mark are in
2 the same category of products which Starbuzz offers under the Starbuzz Marks.
3 Therefore, Defendant's use of the Infringing Mark is likely to cause consumer
4 confusion.
5

6 43. Starbuzz and Defendant sell their products online. Starbuzz and
7 Defendant thus have convergent marketing channels.
8

9 44. Starbuzz is further informed and believes, and on that basis alleges,
10 that Starbuzz and Defendant have convergent marketing channels since they sell
11 and market products within the same geographic area.
12

13 45. Defendant's use of convergent marketing channels increases the
14 likelihood of consumer confusion.
15

16 46. Defendant's continued use of the Infringing Mark is thus likely to lead
17 consumers, retailers, wholesalers, and vendors to mistakenly conclude that
18 Defendant's products are affiliated, connected, or associated with Starbuzz.
19 Consumers are likely to be misled and confused as to the true source, sponsorship,
20 or affiliation of Defendant's products.
21

22 47. Starbuzz never consented, either orally or in writing, to allow
23 Defendant to use trademarks identical or similar to the Starbuzz Marks for any
24 reason, including the marketing and sale of Infringing Products.
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1 48. Defendant knowingly used and continue to use the Infringing Mark
2 without Starbuzz's consent or authorization.

3 **FIRST CLAIM FOR RELIEF**
4 **[Trademark Infringement Under Lanham Act 15 U.S.C. §1114]**

5 49. Starbuzz re-alleges and incorporates by this reference paragraphs 1
6 through 48, inclusive, of this Complaint as if fully set forth herein.

7 50. Defendant's use of the Infringing Mark to promote, market, or sell
8 Infringing Products constitutes trademark infringement pursuant to 15 U.S.C.
9 §1114.
10

11 51. Defendant has promoted, sold, and marketed, and continue to
12 promote, sell, and market, Infringing Products using the Infringing Mark, which
13 are identical or confusingly similar to the Starbuzz Marks.
14

15 52. Starbuzz is informed and believes, and on that basis alleges, that its
16 use of the Starbuzz Marks in commerce predates Defendant's use of the Infringing
17 Mark in commerce.
18

19 53. The Starbuzz Marks are highly distinctive, arbitrary and/or fanciful,
20 and are entitled to strong trademark protection.
21

22 54. Defendant continues to promote, sell and market the Infringing
23 Products under the Infringing Mark, in direct competition with Starbuzz's
24 products, which Starbuzz promotes, sells, and markets under the Starbuzz Marks.
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1 Defendant therefore uses the Infringing Mark on the same, related, or
2 complementary category of goods as Starbuzz.

3 55. Defendant's Infringing Mark is so similar in appearance,
4
5 pronunciation, meaning, and commercial impression to the Starbuzz Marks that
6 consumers are likely to be confused as to the source of the parties' products.

7
8 56. Starbuzz is informed and believes, and on that basis alleges, that
9 Defendant markets and sells his products throughout the United States through
10 various channels, including, but not limited to, the Internet and retail stores and
11 shops. These are the same channels through which Starbuzz markets and sells its
12 goods.
13

14
15 57. Starbuzz is informed and believes, and on that basis alleges, that
16 Defendant intentionally and willfully adopted the Infringing Mark in an effort to
17 deceive or cause confusion with the consuming public.
18

19 58. Defendant's attempts to cause confusion, or to cause mistake, or to
20 deceive further indicate an intentional and willful infringement upon the Starbuzz
21 Marks.
22

23 59. Defendant's continued use of the Infringing Mark also demonstrates
24 Defendant's intentional and willful infringement of the Starbuzz Marks.
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1 60. Defendant's intentional, continuing, and willful infringement of the
2 Starbuzz Marks has caused and will continue to cause damage to Starbuzz, and is
3 causing irreparable harm to Starbuzz for which there is no adequate remedy at law.
4

5 61. Defendant is directly, contributorily, and/or vicariously liable for
6 these actions.
7

8 **SECOND CLAIM FOR RELIEF**
9 **[Trademark Infringement - False Designation of Origin Under**
10 **Lanham Act 15 U.S.C. §1125(a)(1)(A)]**

11 62. Starbuzz re-alleges and incorporates by this reference paragraphs 1
12 through 61, inclusive, of this Complaint as if fully set forth herein.

13 63. In connection with Infringing Products, Defendant knowingly and
14 willfully used in commerce, words, terms, names, symbols, or devices, or a
15 combination thereof, which are likely to cause confusion, or to cause mistake, or to
16 deceive as to the affiliation, connection, or association of Defendant with Starbuzz,
17 or as to the origin, sponsorship, or approval of Defendant's goods.
18

19 64. Starbuzz is informed and believes, and on that basis alleges, that
20 Defendant willfully and intentionally created a false or misleading affiliation,
21 connection, or association between Defendant's goods and Starbuzz's goods.
22

23 65. Starbuzz is informed and believes, and on that basis alleges, that
24 Defendant adopted words, terms, names, symbols, or devices, or a combination
25 thereof, which are similar to the Starbuzz Marks, or willfully and intentionally
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28

1 marketed his goods and services with words, terms, names, symbols, or devices, or
2 a combination thereof, similar to the Starbuzz Marks.

3 66. Starbuzz is informed and believes, and on that basis alleges, that
4
5 Starbuzz's use of the Starbuzz Marks in commerce precedes Defendant's use of the
6 Infringing Marks in interstate commerce.

7
8 67. Starbuzz is informed and believes, and on that basis alleges, that
9 Defendant's aforesaid acts were done with knowledge of Starbuzz's trademarks,
10 and the knowledge that use of such words, terms, names, symbols, or devices, or a
11 combination thereof, was misleading.

12
13 68. Defendant's intentional and willful infringement of Starbuzz's
14 trademarks has caused and will continue to cause damage to Starbuzz and is
15 causing irreparable harm to Starbuzz for which there is no adequate remedy at law.

16
17 69. Starbuzz was damaged by these acts in an amount to be proven at
18 trial. Defendant's actions have caused and will continue to cause irreparable harm
19 to Starbuzz for which there is no adequate remedy at law. Thus, Starbuzz is also
20 entitled to injunctive and equitable relief against Defendant under the Lanham Act.

21
22 70. Defendant is directly, contributorily, and/ or vicariously liable for
23 these actions.
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THIRD CLAIM FOR RELIEF
[Cybersquatting Under Lanham Act 15 U.S.C. §1125(d)]

71. Plaintiff re-alleges and incorporates by this reference paragraphs 1 through 70, inclusive, of this Complaint as if fully set forth herein.

72. Defendant has registered and used the trademark “MYST” and terms confusingly similar to “MYST” in the domain names, www.mystcigs.com, www.mystcig.com, and www.mystcigarette.com.

73. Plaintiff was the first to use the Starbuzz Marks in commerce. By virtue of such first use and federal registration for the Starbuzz Marks, Defendant has no intellectual property rights in domain name(s) containing the term “MYST”.

74. Plaintiff is informed and believes, and on that basis alleges, that “MYST” is not the legal name of any of the Defendant’s businesses.

75. Defendant is using the Infringing Website containing the Infringing Mark and terms similar to the Starbuzz Mark, in order to market Defendant’s Infringing Products.

76. Plaintiff is informed and believes, and on that basis alleges, that Defendant intends to divert customers from Plaintiff’s websites for commercial gain.

77. In registering the MYST domain names, Defendant has had bad faith intent to profit from the Starbuzz Marks.

1 78. Defendant's aforesaid acts constitute cybersquatting within the
2 meaning of 15 U.S.C. § 1125(d).

3 79. Defendant is directly, contributorily and/or vicariously liable for these
4 actions.
5

6 **FOURTH CLAIM FOR RELIEF**
7 **[Unfair Competition – Violation of California**
8 **Business and Professions Code §17200 et seq.]**

9 80. Starbuzz re-alleges and incorporates by this reference paragraphs 1
10 through 79 inclusive, of this Complaint as if fully set forth herein.
11

12 81. Starbuzz is informed and believes, and on that basis alleges, that
13 Defendant's aforesaid acts constitute actionable wrongs under California Business
14 and Professions Code §17200 *et seq.* in that Defendant's unlawful, unfair, or
15 fraudulent use of words, terms, names, symbols, or devices, or a combination
16 thereof, which are similar to the Starbuzz Marks, create a probability of confusion
17 or misunderstanding as to the source, sponsorship, approval, or certification of
18 Starbuzz's and Defendant's goods.
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20
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22 82. Starbuzz is informed and believes, and on that basis alleges, that
23 Defendant has offered and continues to market goods using words, terms, names,
24 symbols, or devices, or a combination thereof, which are similar to the Starbuzz
25 Marks, in an attempt to unfairly compete with Starbuzz.
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1 83. Starbuzz is further informed and believes, and on that basis alleges,
2 that Defendant has also been attempting to unfairly compete with Starbuzz through
3 the use of deceptive and/or misleading advertising.
4

5 84. By reason of the foregoing unlawful acts, Defendant has caused, and
6 continues to cause, substantial and irreparable damage and injury to Starbuzz and
7 to the public. Defendant has benefited from such unlawful conduct, and will
8 continue to carry out such unlawful conduct and to be unjustly enriched thereby,
9 unless enjoined by this Court.
10

11 85. As a proximate and direct result of Defendant's acts as herein alleged,
12 Starbuzz has sustained damages in an amount to be proven at trial.
13

14 86. Defendant is directly, contributorily and/or vicariously liable for these
15 actions.
16

17
18 **FIFTH CLAIM FOR RELIEF**
19 **[Common Law Trademark Infringement and Unfair Competition]**

20 87. Starbuzz re-alleges and incorporates by this reference paragraphs 1
21 through 86, inclusive, of this Complaint as if fully set forth herein.
22

23 88. Starbuzz is informed and believes, and on that basis alleges, that
24 Defendant's aforesaid acts constitute actionable wrongs under the common law in
25 that Defendant's use of the Infringing Mark constitutes an infringement and
26 violation of Starbuzz's rights in its trademarks, and creates a likelihood that
27 Starbuzz's customers, potential customers, and the public generally will be
28

1 confused or misled as to the source of goods and services because they are likely to
2 believe that Defendant's products are identical to or affiliated with that of
3 Starbuzz.
4

5 89. By reason of the foregoing unlawful acts, Defendant has caused, and
6 continue to cause, substantial and irreparable damage and injury to Starbuzz and to
7 the public. Defendant has benefited from such unlawful conduct and will continue
8 to carry out such unlawful conduct and to be unjustly enriched thereby unless
9 enjoined by this Court.
10
11

12 90. As a proximate and direct result of Defendant's acts as herein alleged,
13 Starbuzz has sustained damages in an amount to be proven at trial.
14

15 91. Defendant is directly, contributorily and/or vicariously liable for these
16 actions.
17

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Starbuzz respectfully prays for judgment against Defendant
20 as follows:
21

22 **ON THE FIRST, SECOND AND THIRD CLAIMS**

23 1. An Order finding that Defendant has infringed Starbuzz's intellectual
24 property rights;
25
26
27
28

1 2. An Order requiring Defendant to account for and disgorge any and all
2 profits received by the use of Starbuzz's intellectual property pursuant to 15 U.S.C.
3 §1117(a)(1);
4

5 3. An award of the attorneys' fees and costs of this action, in an amount
6 to be determined at trial, pursuant to 15 U.S.C. §1117(a)(3) and other applicable
7 federal and state law;
8

9 4. An Order directing the recall from the marketplace and destruction of
10 materials bearing Starbuzz's trademarks, or any confusingly similar marks,
11 including, but not limited to, the marks BLUE MIST, CITRUS MIST,
12 HAWAIIAN MIST, TROPICAL MIST, PEACH MIST, and MYST in any
13 manner, for purposes of advertising or selling, or soliciting purchases of products
14 or services, or products sold in the course of providing such services, or any related
15 activities, pursuant to 15 U.S.C. §1118;
16
17
18

19 5. A preliminary and permanent injunction, pursuant to 15 U.S.C. §1116,
20 enjoining and prohibiting Defendant and any of his officers, directors, employees,
21 agents, subsidiaries, distributors, dealers, and all persons in active concert or
22 participation with any of them from:
23

24 A. Using Starbuzz's trademarks, or any confusingly similar marks,
25 including, but not limited to, the marks BLUE MIST, CITRUS MIST,
26 HAWAIIAN MIST, TROPICAL MIST, PEACH MIST, and MYST, in any
27
28

1 manner, on or in products, merchandise, or goods, or for purposes of advertising,
2 selling, or soliciting purchases of, products or merchandise;

3 B. Infringing on Starbuzz's trademarks;

4
5 C. Assisting, aiding, or abetting any other person or business entity in
6 engaging in or performing any of the activities referred to in subparagraphs (A)
7 and (B) above; and
8

9 D. Registering, owning, or operating any domain names which
10 incorporate the terms "MYST" or "MIST";
11

12 6. An Order requiring Defendant and his agents, servants, and
13 employees and all persons acting in concert with or for them to file with this Court
14 and serve on Starbuzz, within thirty (30) days after service of an injunction, a
15 report in writing, under oath, setting forth in detail the manner and form in which
16 Defendant has complied with the applicable injunction, pursuant to 15 U.S.C.
17 §1116;
18

19
20 7. An Order requiring Defendant to withdraw and abandon his trademark
21 application, serial no. 85/774,314, for the infringing MYST trademark or
22 cancelling Defendant's infringing MYST trademark pursuant to Section 37 of the
23 Lanham Act, 15 U.S.C. § 1119, if it proceeds to registration;
24
25

26 8. Pre-judgment and post-judgment interest on any amounts awarded at
27 the maximum legal rate as permitted by law and equity; and
28

1 9. Any other or further relief that the Court deems appropriate, proper,
2 and just.

3 **ON THE FOURTH AND FIFTH CLAIMS**
4

5 1. An Order finding that Defendant has infringed Starbuzz's intellectual
6 property rights and unfairly competed with Starbuzz;

7
8 2. Judgment for Starbuzz and against Defendant for actual, special, and
9 consequential damages, in an amount to be proven at trial and for costs incurred in
10 the litigation;
11

12 3. An Order requiring Defendant to account for and disgorge all gains,
13 profits, and advantages from the violations of California State, and common law;
14

15 4. A preliminary and permanent injunction, enjoining and prohibiting
16 Defendant and any of his officers, directors, employees, agents, subsidiaries,
17 distributors, dealers, and all persons in active concert or participation with any of
18 them from using the marks BLUE MIST, CITRUS MIST, HAWAIIAN MIST,
19 TROPICAL MIST, PEACH MIST, and MYST to advertise, solicit business or
20 otherwise compete with Starbuzz.
21

22
23 5. Pre-judgment and post-judgment interest on any amounts awarded at
24 the maximum legal rate as permitted by law and equity; and
25

26 6. Any other or further relief that the Court deems appropriate, proper,
27 and just.
28

1 DATED: February 9, 2015

Respectfully Submitted,
THE PATEL LAW FIRM, P.C.

3 

4 Natu J. Patel
5 Jason Chuan
6 Daniel H. Ngai
7 Attorneys for Plaintiff
8 Starbuzz Tobacco, Inc.

DEMAND FOR TRIAL BY JURY

Plaintiff Starbuzz Tobacco, Inc. hereby demands a trial by jury on all issues raised in the Complaint.

DATED: February 9, 2015

Respectfully Submitted,
THE PATEL LAW FIRM, P.C.



Natu J. Patel
Daniel H. Ngai
Jason Chuan
Attorneys for Plaintiff
Starbuzz Tobacco, Inc.

Exhibit A

Int. Cl.: 34

Prior U.S. Cls.: 2, 8, 9 and 17

Reg. No. 3,619,407

United States Patent and Trademark Office

Registered May 12, 2009

**TRADEMARK
PRINCIPAL REGISTER**

Blue Mist

STARBUZZ TOBACCO, INC. (CALIFORNIA CORPORATION)
UNIT #A
1889 W. COMMONWEALTH STREET
FULLERTON, CA 92833

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: PIPE TOBACCO, TOBACCO, SMOKING TOBACCO, FLAVORED TOBACCO, MOLASSES TOBACCO, IN CLASS 34 (U.S. CLS. 2, 8, 9 AND 17).

SER. NO. 77-619,104, FILED 11-20-2008.

FIRST USE 12-1-2006; IN COMMERCE 12-1-2006.

REGINA DRUMMOND, EXAMINING ATTORNEY

Exhibit B

United States of America

United States Patent and Trademark Office

Citrus Mist

Reg. No. 3,695,500 STARBUZZ TOBACCO, INC. (CALIFORNIA CORPORATION)
Registered Oct. 13, 2009 2116 W. LINCOLN AVENUE
ANAHEIM, CA 92801

Int. Cl.: 34 FOR: PIPE TOBACCO; MOLASSES TOBACCO; TOBACCO; SMOKING TOBACCO;
FLAVORED TOBACCO; HERBAL MOLASSES HERBS FOR SMOKING, TOBACCO AND
TOBACCO SUBSTITUTES, IN CLASS 34 (U.S. CLS. 2, 8, 9 AND 17).

TRADEMARK
PRINCIPAL REGISTER FIRST USE 3-4-2008; IN COMMERCE 3-4-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 3,619,407.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CITRUS", APART FROM THE MARK AS SHOWN.

SER. NO. 77-699,076, FILED 3-25-2009.

DAVID YONTEF, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office

Exhibit C

United States of America

United States Patent and Trademark Office

HAWAIIAN MIST

Reg. No. 4,196,953

Registered Aug. 28, 2012

Int. Cl.: 34

TRADEMARK

PRINCIPAL REGISTER

STARBUZZ TOBACCO, INC. (CALIFORNIA CORPORATION)
2116 W. LINCOLN AVE.
ANAHEIM, CA 92801

FOR: PIPE TOBACCO; MOLASSES TOBACCO; TOBACCO; SMOKING TOBACCO;
FLAVORED TOBACCO, IN CLASS 34 (U.S. CLS. 2, 8, 9 AND 17).

FIRST USE 6-22-2011; IN COMMERCE 6-22-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HAWAIIAN", APART FROM THE MARK AS SHOWN.

SER. NO. 85-359,875, FILED 6-29-2011.

RONALD MCMORROW, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office

Exhibit D

United States of America

United States Patent and Trademark Office

TROPICAL MIST

Reg. No. 4,196,957

Registered Aug. 28, 2012

Int. Cl.: 34

TRADEMARK

PRINCIPAL REGISTER

STARBUZZ TOBACCO, INC. (CALIFORNIA CORPORATION)
2116 W. LINCOLN AVE.
ANAHEIM, CA 92801

FOR: PIPE TOBACCO; MOLASSES TOBACCO; TOBACCO; SMOKING TOBACCO;
FLAVORED TOBACCO, IN CLASS 34 (U.S. CLS. 2, 8, 9 AND 17).

FIRST USE 6-22-2011; IN COMMERCE 6-22-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 85-360,053, FILED 6-29-2011.

RONALD MCMORROW, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office

Exhibit E

United States of America
United States Patent and Trademark Office

PEACH MIST

Reg. No. 4,287,968

Registered Feb. 12, 2013

Int. Cl.: 34

TRADEMARK

PRINCIPAL REGISTER

STARBUZZ TOBACCO, INC. (CALIFORNIA CORPORATION)
2116 W. LINCOLN AVENUE
ANAHEIM, CA 92801

FOR: PIPE TOBACCO; MOLASSES TOBACCO; TOBACCO; SMOKING TOBACCO;
FLAVORED TOBACCO, IN CLASS 34 (U.S. CLS. 2, 8, 9 AND 17).

FIRST USE 1-27-2012; IN COMMERCE 1-27-2012.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,619,407, 3,671,258, AND 3,695,500.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PEACH", APART FROM THE MARK AS SHOWN.

SER. NO. 85-533,824, FILED 2-3-2012.

KATHLEEN M. VANSTON, EXAMINING ATTORNEY



Lisa Street Lee

Acting Director of the United States Patent and Trademark Office

Exhibit F

Generated on: This page was generated by TSDR on 2015-02-09 13:25:47 EST

Mark: BLUE MIST

BLUE MIST

US Serial Number: 85812403

Application Filing Date: Dec. 28, 2012

Register: Principal

Mark Type: Trademark

Status: Suspension check completed. Application remains suspended.

Status Date: Oct. 15, 2014

Mark Information

Mark Literal Elements: BLUE MIST

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US Registrations: 3619407, 4091743

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Electronic cigarettes

International Class(es): 034 - Primary Class

U.S Class(es): 002, 008, 009, 017

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 22, 2012

Use in Commerce: Aug. 22, 2012

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: Starbuzz Tobacco, Inc.

Owner Address: 10871 Forbes Avenue
Garden Grove, CALIFORNIA 92843
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: CALIFORNIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Natu J. Patel

Docket Number: S015-4384

Attorney Primary Email Address: NPatel@thePatelLawFirm.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Natu J. Patel
Name/Address: The Patel Law Firm, P.C.
 22952 Mill Creek Drive
 Laguna Hills, CALIFORNIA 92653
 UNITED STATES

Phone: (949) 955-1077

Fax: (949) 955-1877

Correspondent e-mail: NPatel@thePatelLawFirm.com MUy@thePatelLawFirm.com JChuan@thePatelLawFirm.com

Correspondent e-mail Yes
Authorized:

Domestic Representative - Not Found

Prosecution History

| Date | Description | Proceeding Number |
|---------------|--|-------------------|
| Dec. 19, 2014 | ATTORNEY REVOKED AND/OR APPOINTED | |
| Dec. 19, 2014 | TEAS REVOKE/APPOINT ATTORNEY RECEIVED | |
| Oct. 15, 2014 | REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED | |
| Apr. 15, 2014 | REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED | |
| Nov. 06, 2013 | ATTORNEY REVOKED AND/OR APPOINTED | |
| Nov. 06, 2013 | TEAS REVOKE/APPOINT ATTORNEY RECEIVED | |
| Oct. 15, 2013 | NOTIFICATION OF LETTER OF SUSPENSION E-MAILED | 6332 |
| Oct. 15, 2013 | LETTER OF SUSPENSION E-MAILED | 6332 |
| Oct. 15, 2013 | SUSPENSION LETTER WRITTEN | 82414 |
| Oct. 11, 2013 | TEAS/EMAIL CORRESPONDENCE ENTERED | 88889 |
| Oct. 10, 2013 | CORRESPONDENCE RECEIVED IN LAW OFFICE | 88889 |
| Oct. 10, 2013 | TEAS RESPONSE TO OFFICE ACTION RECEIVED | |
| Oct. 10, 2013 | TEAS CHANGE OF CORRESPONDENCE RECEIVED | |
| Apr. 16, 2013 | NOTIFICATION OF NON-FINAL ACTION E-MAILED | 6325 |
| Apr. 16, 2013 | NON-FINAL ACTION E-MAILED | 6325 |
| Apr. 16, 2013 | NON-FINAL ACTION WRITTEN | 82414 |
| Apr. 10, 2013 | ASSIGNED TO EXAMINER | 82414 |
| Jan. 11, 2013 | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM | |
| Jan. 01, 2013 | NEW APPLICATION ENTERED IN TRAM | |

TM Staff and Location Information

TM Staff Information

TM Attorney: CHANG, KATHERINE S

Law Office Assigned: LAW OFFICE 115

File Location

Current Location: TMO LAW OFFICE 115 - EXAMINING
 ATTORNEY ASSIGNED

Date in Location: Oct. 15, 2013

Exhibit G

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Click the button below to add the MYST MENTHOL to your wish list.

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MYST TOBACCO

~~\$12.99~~ \$9.99

Not Rated

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MYST
MENTHOL~~\$12.99~~ \$9.99

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MYST MENTHOL

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★★★★★

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OUR NEWSLETTER

Your First Name:

Your Email Address:

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MYST MENTHOL



RRP: \$12.99

Your Price: **\$9.99**
(You save \$3.00)

SKU: 101

Weight: 1.00 Ounces

Rating: ★★★★★ ([2 product reviews](#))

Shipping: Free Shipping

Quantity: [ADD TO CART](#)

Product Description

Experience the pleasure of a blast of minty coolness. MYST Menthol contains flavoring extracted from real mint leaves, as well as a few menthol crystals to give it some kick. Every pull on a MYST Menthol is a breath of winter air.

Find Similar Products by Category

> [Myst E Cigs](#)

Product Reviews

[WRITE A REVIEW](#)

1. The BEST ★★★★★

Posted by George on 25th Jul 2013

The cigarettes last me almost through the week with moderate use. Blu rarely lasts me more than a day or two. Much better flavor than Blu as well. I won't buy anything else but MYST!

2. I own 5 star e cigs ★★★★★

Posted by Big joe from co como on 31st May 2013

There pretty good there okay but five-star e-cigarette's are number one in the world

Customers Who Viewed This Product Also Viewed



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Click the button below to add the MYST TOBACCO to your wish list.

[ADD TO WISH LIST](#)

RELATED PRODUCTS

MYST MENTHOL

~~\$12.99~~ \$9.99

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NEW PRODUCTS



MYST TOBACCO

~~\$12.99~~ \$9.99

Not Rated

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MYST MENTHOL

~~\$12.99~~ \$9.99[ADD TO CART](#)

OUR NEWSLETTER

Your First Name:

Your Email Address:

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MYST TOBACCO



RRP: \$12.99

Your Price: **\$9.99**
(You save \$3.00)

SKU: 102

Weight: 1.00 Ounces

Shipping: Free Shipping

Quantity: [ADD TO CART](#)

Product Description

Enjoy the essence of tobacco in the way it was meant to be experienced. Flavored with an extraction from real tobacco leaves, MYST Tobacco will give you the taste of a cigarette without the burning.

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Product Reviews

This product hasn't received any reviews yet. Be the first to review this product!

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Exhibit H



Search Domain or keyword

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 - [Site Analytics](#)
 - [Secure Certificates](#)
- [Email Hosting](#)
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 - [WebMail](#)
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 - [Blackberry Email](#)
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- [Website Tools](#)
 - [My Websites](#)

- [SmartSpace](#)
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- [Web Site Design Services](#)
- [Photo Album](#)
- [Quick Shopping Cart](#)
- [Quick Blogcast](#)
- [Web applications](#)
 - [Wordpress Hosting](#)
 - [Joomla Hosting](#)
 - [Drupal Hosting](#)
- [Website Marketing](#)
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- [Email Marketting](#)
- [Contact Manager CRM](#)
- [Brand Identity Design Services](#)
- [Web Banner Design Services](#)
- [Search Engine Visibility](#)
- [Logo Design Services](#)
- [Calendar](#)
- [Domain Tools](#)
 - [Domain Generator](#)
 - [Whois Lookups](#)
 - [Real Nameservers](#)
 - [Free Nameservers \(Resolvers\)](#)
 - [Nameserver Domains](#)
 - [Registrar List](#)
- [-](#)
 - [Contact Us - Phone](#)
 - [Contact Us - Chat](#)
 - [Contact Us - Email](#)
 - [Help Center](#)
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 - [Quality](#)
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You are on page 1/60 of your hourly limit. Your IP (174.76.21.90) r-resolves to wsip-174-76-21-90.oc.oc.cox.net (BK-OK)

MYSTCIGS.COM

MYSTCIGS.COM : [myst](#) (en) [cig](#) (en)



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Nameserver history

DB: 103 : Monday 8 October 2012 (Old Record)

[NS13.DOMAINCONTROL.COM](#) (853406)[NS14.DOMAINCONTROL.COM](#) (830329)DB: 107 : Thursday 7 February 2013 >>> **NOW**[NS1.BIGCOMMERCE.COM](#) (45148)[NS2.BIGCOMMERCE.COM](#) (45114)

DNS record history

29-October-2012

Web : 97.74.42.79

Mail : 10 mailstore1.secureserver.net

Mail : 0 smtp.secureserver.net

Whois on 16-October-2012[Refresh Data](#)-----
Whois Server Version 2.0

--SI-VSCompRegistrars---

```
Domain Name: MYSTCIGS.COM
Registrar: godaddy.com, llc
Whois Server: whois.godaddy.com
Referral URL: http://registrar.godaddy.com
Name Server: NS13.DOMAINCONTROL.COM
Name Server: NS14.DOMAINCONTROL.COM
Status: clientDeleteProhibited
Status: clientRenewProhibited
Status: clientTransferProhibited
Status: clientUpdateProhibited
Updated Date: 09-aug-2012
Creation Date: 09-aug-2012
Expiration Date: 09-aug-2014
```

>>> Last update of whois database: Tue, 16 Oct 2012 13:09:01 UTC <<<

--SI-VSNotice---

--SI-VSTerms---

The data contained in [godaddy.com, llc](#)'s WhoIs database, while believed by the company to be reliable, is provided "as is" with no guarantee or warranties regarding its accuracy. This

information is provided for the sole purpose of assisting you in obtaining information about domain name registration records. Any use of this data for any other purpose is expressly forbidden without the prior written permission of [godaddy.com, llc](http://godaddy.com). By submitting an inquiry, you agree to these terms of usage and limitations of warranty. In particular, you agree not to use this data to allow, enable, or otherwise make possible, dissemination or collection of this data, in part or in its entirety, for any purpose, such as the transmission of unsolicited advertising and solicitations of any kind, including spam. You further agree not to use this data to enable high volume, automated or robotic electronic processes designed to collect or compile this data for any purpose, including mining this data for your own personal or commercial purposes.

Please note: the registrant of the domain name is specified in the "registrant" field. In most cases, [godaddy.com, llc](http://godaddy.com) is not the registrant of domain names listed in this database.

Registered through: [godaddy.com, llc](http://godaddy.com) (<http://www.godaddy.com>)
Domain Name: MYSTCIGS.COM
Created on: 09-Aug-12
Expires on: 09-Aug-14
Last Updated on: 09-Aug-12

Registrant:
philip melnick
POB 131822
staten island, New York 10313
United States

Administrative Contact:

melnick, philip
POB 131822
staten island, New York 10313
United States
(917) 747-4674

varkias4@aol.com

Technical Contact:

melnick, philip
POB 131822
staten island, New York 10313
United States
(917) 747-4674

varkias4@aol.com

Domain servers in listed order:
NS13.DOMAINCONTROL.COM
NS14.DOMAINCONTROL.COM

Committer's name
(Your Name)

Comment Subject

Comment Body


Submit

No comments yet.

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Exhibit I

 **All Products** Domains Websites Hosting & SSL Get Found Email & Tools Support **Hot Deals** NEW

WHOIS search results for:
MYSTCIGARETTE.COM
(Registered)

Is this your domain? GO

Want to buy this domain? GO

Domain Name: MYSTCIGARETTE.COM
Registry Domain ID: 1765622844_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.godaddy.com
Registrar URL: http://www.godaddy.com
Update Date: 2014-11-12T17:07:30Z
Creation Date: 2012-12-11T18:32:10Z
Registrar Registration Expiration Date: 2015-12-11T18:32:10Z
Registrar: GoDaddy.com, LLC
Registrar IANA ID: 146
Registrar Abuse Contact Email: abuse@godaddy.com
Registrar Abuse Contact Phone: +1.480-624-2505
Domain Status: clientTransferProhibited http://www.icann.org/epp#clientTransferProhibited
Domain Status: clientUpdateProhibited http://www.icann.org/epp#clientUpdateProhibited
Domain Status: clientRenewProhibited http://www.icann.org/epp#clientRenewProhibited
Domain Status: clientDeleteProhibited http://www.icann.org/epp#clientDeleteProhibited
Registry Registrant ID:
Registrant Name: philip melnick
Registrant Organization:
Registrant Street: POB 131822
Registrant City: staten island
Registrant State/Province: New York
Registrant Postal Code: 10313
Registrant Country: United States
Registrant Phone: 9177474674
Registrant Phone Ext:
Registrant Fax:
Registrant Fax Ext:
Registrant Email: varkias4@aol.com
Registry Admin ID:
Admin Name: philip melnick
Admin Organization:
Admin Street: POB 131822
Admin City: staten island
Admin State/Province: New York
Admin Postal Code: 10313
Admin Country: United States
Admin Phone: 9177474674
Admin Phone Ext:
Admin Fax:
Admin Fax Ext:
Admin Email: varkias4@aol.com
Registry Tech ID:
Tech Name: philip melnick
Tech Organization:
Tech Street: POB 131822
Tech City: staten island
Tech State/Province: New York
Tech Postal Code: 10313
Tech Country: United States
Tech Phone: 9177474674
Tech Phone Ext:
Tech Fax:
Tech Fax Ext:
Tech Email: varkias4@aol.com
Name Server: NS39.DOMAINCONTROL.COM
Name Server: NS40.DOMAINCONTROL.COM
DNSSEC: unsigned
URL of the ICANN WHOIS Data Problem Reporting System: http://wdprs.internic.net/
Last update of WHOIS database: 2015-2-3T18:00:00Z

For more information on Whois status codes, please visit <https://www.icann.org/resources/pages/epp-status-codes-2014-06-16-en>

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Domain already taken?

Enter Domain Name .com Search

NameMatch Recommendations

GoDaddy.com NameMatch has found similar domain names related to your search. Registering multiple domain names may help protect your online brand and enable you to capture more Web traffic, which you can then direct to your primary domain.

Domains available for new registration:

| Alternate TLDs | | |
|---------------------------|-------------------------|------------------|
| <input type="checkbox"/> | mystcigarette.info | SAVE! \$2.99*/yr |
| <input type="checkbox"/> | mystcigarette.net | SAVE! \$9.99*/yr |
| <input type="checkbox"/> | mystcigarette.org | SAVE! \$8.99*/yr |
| <input type="checkbox"/> | mystcigarette.us | SAVE! \$7.99*/yr |
| <input type="checkbox"/> | mystcigarette.biz | SAVE! \$9.99*/yr |
| <input type="checkbox"/> | mystcigarette.mobi | SAVE! \$6.99*/yr |
| <input type="checkbox"/> | mystcigarette.ca | \$12.99*/yr |
| <input type="checkbox"/> | mystcigarette.me | SAVE! \$9.99*/yr |
| Similar Premium Domains ? | | |
| <input type="checkbox"/> | AmericanCigarette.com | \$1,299.00* |
| <input type="checkbox"/> | CigaretteHistory.com | \$799.00* |
| <input type="checkbox"/> | PremiumCigarette.com | \$1,299.00* |
| <input type="checkbox"/> | AboutCigarette.com | \$1,795.00* |
| <input type="checkbox"/> | bestcigarettebrands.com | \$2,119.00* |
| <input type="checkbox"/> | BetterECigarette.com | \$850.00* |
| | | ADD TO CART |

Domains available at Go Daddy Auctions®:

| | | |
|--------------------------|---|--------------|
| <input type="checkbox"/> | cigarettesuperstore.com Ends on: 5/3/2015 12:00:00 AM PST | \$25,000.00* |
| <input type="checkbox"/> | cigarettehistory.com Ends on: 4/3/2015 9:55:00 AM PST | \$799.00* |
| <input type="checkbox"/> | cigarettelightheadapter.com Ends on: 4/2/2015 9:15:00 AM PST | \$1,549.00* |
| <input type="checkbox"/> | cigarette-cheap.com Ends on: 4/1/2015 12:00:00 PM PST | \$449.00* |
| <input type="checkbox"/> | aluminumcigarettecase.com Ends on: 3/26/2015 10:11:00 AM PST | \$749.00* |
| <input type="checkbox"/> | cigarettemanufacturer.com Ends on: 3/26/2015 9:11:00 AM PST | \$499.00* |
| | | VIEW LISTING |

Learn more about

- [Private Registration](#) ? [Deluxe Registration](#) ?
- [Business Registration](#) ? [Protected Registration](#) ?

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*Plus ICANN fee of \$0.18 per domain name year.

**CA domain names will be registered through Go Daddy Domains Canada, Inc., a CIRA certified registrar.

Please note: the registrant of the domain name is specified in the "registrant" section. In most cases, GoDaddy.com, LLC is not the registrant of domain names listed in this database.

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WHOIS search results for:
MYSTCIG.COM
(Registered)

Is this your domain?
[GO](#)

Want to buy this domain?
[GO](#)

Domain Name: MYSTCIG.COM
Registry Domain ID: 1738979333_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.godaddy.com
Registrar URL: http://www.godaddy.com
Update Date: 2014-08-16T11:11:24Z
Creation Date: 2012-08-15T07:51:01Z
Registrar Registration Expiration Date: 2015-08-15T07:51:01Z
Registrar: GoDaddy.com, LLC
Registrar IANA ID: 146
Registrar Abuse Contact Email: abuse@godaddy.com
Registrar Abuse Contact Phone: +1.480-624-2505
Domain Status: clientTransferProhibited http://www.icann.org/epp#clientTransferProhibited
Domain Status: clientUpdateProhibited http://www.icann.org/epp#clientUpdateProhibited
Domain Status: clientRenewProhibited http://www.icann.org/epp#clientRenewProhibited
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Registrant City: staten island
Registrant State/Province: New York
Registrant Postal Code: 10313
Registrant Country: United States
Registrant Phone: (917) 747-4674
Registrant Phone Ext:
Registrant Fax:
Registrant Fax Ext:
Registrant Email: varkias4@aol.com
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Admin Name: philip melnick
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Tech Postal Code: 10313
Tech Country: United States
Tech Phone: (917) 747-4674
Tech Phone Ext:
Tech Fax:
Tech Fax Ext:
Tech Email: varkias4@aol.com
Name Server: DNS1.STABLETRANSIT.COM
Name Server: DNS2.STABLETRANSIT.COM
DNSSEC: unsigned
URL of the ICANN WHOIS Data Problem Reporting System: http://wdprs.internic.net/
Last update of WHOIS database: 2015-2-3T18:00:00Z

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.com

Search

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| <input type="checkbox"/> | mystcig.net | SAVE! \$9.99*/yr |
| <input type="checkbox"/> | mystcig.org | SAVE! \$8.99*/yr |
| <input type="checkbox"/> | mystcig.us | SAVE! \$7.99*/yr |
| <input type="checkbox"/> | mystcig.biz | SAVE! \$9.99*/yr |
| <input type="checkbox"/> | mystcig.mobi | SAVE! \$6.99*/yr |
| <input type="checkbox"/> | mystcig.ca | \$12.99*/yr |
| <input type="checkbox"/> | mystcig.me | SAVE! \$9.99*/yr |
| Similar Premium Domains ? | | |
| <input type="checkbox"/> | CheepCig.com | \$949.00* |
| <input type="checkbox"/> | DirtCheap-Cigs.com | \$401.00* |
| <input type="checkbox"/> | CigJ.com | \$888.00* |
| ADD TO CART | | |

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*Plus ICANN fee of \$0.18 per domain name year.
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